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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,008	10/06/2000	Timothy A.M. Chuter	ENDOV-54176	9810

24201 7590 09/08/2003

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EXAMINER

CHATTOPADHYAY, URMI

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 09/08/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

NK

Office Action Summary	Application No. 09/684,008	Applicant(s) CHUTER, TIMOTHY A.M.	
	Examiner Urmi Chattopadhyay	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,7 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3 and 7 is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination

1. The request filed on 8/20/03 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on Application No. 09/684,008 is acceptable and a RCE has been established. An action on the RCE follows.

Response to Amendment

2. The amendment filed 7/9/03 and declaration filed 7/18/03 have been entered as Paper Nos. 13 and 15, respectively. Changes to the claims and declaration have been approved by the examiner, and the 112, first paragraph rejection of claim 17 has been withdrawn.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 11-13 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Orth (USPN 5,800,521 as cited in applicant's IDS).

Orth discloses a method for aneurysm repair with all the elements of claim 11. See Figures 1-4 and columns 1-2, lines 64-45 for a method of implanting a modular graft device within vasculature, the modular graft device including a bifurcated main body (Figure 4) having a first end portion and a second end portion including a first leg and a second leg. The bifurcated main body is inserted within vasculature and a traction force is applied to the first end of the

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main body (see column 2, lines 5-9 for draw strings applying a traction force to the distal end of the graft). The traction force applied to the first end of the main body advances and places the main body in a desired position within the vasculature, namely, over the distal portion of an anchoring member. See Figure 4 for inserting a radially self-expanding (column 4, lines 28-30) device within one of the first and second legs.

Claim 12, see column 4, lines 11-16 for inserting radially self-expanding device within each of the first and second legs.

Claim 13, see Figure 3 for radially self-expanding device inserted within first end portion of the bifurcated graft.

Claim 17, see Figure 4 for the main body lacking self-expanding structure attached thereto prior to placement within vasculature.

Claim 18, see abstract for main body being a graft.

Claim 19, see column 2, lines 1-5 for main body placement by direct percutaneous insertion.

Claim 20, see column 4, lines 8-24 for attachment system placement by direct percutaneous insertion.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orth in view of Inoue (USPN 5,843,162, as cited in previous office action).

Orth discloses a method for aneurysm repair with all the elements of claim 11, including applying a traction force to the first end, but is silent to applying a traction force on the first and second legs, as required by claims 14-16. Inoue discloses a method of implanting a modular bifurcated graft device within vasculature, wherein positioning the main body adjacent a diseased portion of vasculature includes applying a traction force to the first and second legs of the bifurcated main body in order to position the legs into each of the bifurcated branches of the blood vessel. See Figures 40-42 and column 21, lines 5-13. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to look to the teachings of Inoue to modify the method of Orth by including the step of applying a traction force to the first and second legs of the bifurcated main body in order to properly position the legs into each of the bifurcated branches of the blood vessel prior in inserting the branch anchors.

Allowable Subject Matter

7. Claims 1, 3 and 7 are allowed.

Response to Arguments

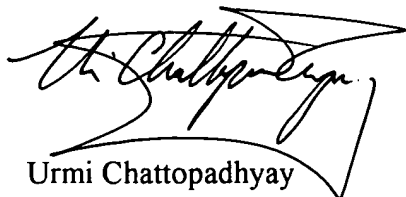
8. Applicant's arguments filed 7/9/03 have been fully considered but they are not persuasive. Applicant argues that Orth does not teach applying a traction force to a first end of a main body to advance and place the main body in a desired position within vasculature. The examiner disagrees. While agreeing that Orth discloses pull strands which are taught to be

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employed to place a graft and an anchoring member in an overlapping configuration after the stent and graft are placed in an appropriate position within a patient, the examiner is rightfully broadly interpreting the step of pulling the pull strings (applying a traction force) to *draw the distal end of the graft a desired amount over the proximal end of the stent* (column 5, lines 26-27) as further advancing the main body. This advancement is required to place the main body in the desired position within the vasculature of over the stent. So while a catheter is used to position the stent and graft in the appropriate position within a patient, i.e. at the vessel bifurcation, applying the traction force to the main body further advances and places the main body in the desired location within the vasculature, that location being the location of the stent.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Urmi Chattopadhyay whose telephone number is (703) 308-8510 and whose work schedule is Monday-Friday, 9:00am – 6:30pm with every other Friday off. The examiner's supervisor, Corrine McDermott, may be reached at (703) 308-2111. The group receptionist may be reached at (703) 308-0858.

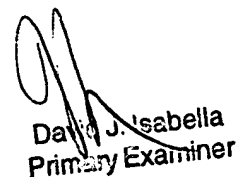
Should the applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 872-9306. Should applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.



Urmi Chattopadhyay

Art Unit 3738

September 4, 2003


David J. Isabella
Primary Examiner